

DONALD E. JOHNSON, )  
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 Plaintiff, )  
 )  
 v. ) No. 4:09CV689 AGF  
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 RONALD C. NEIMAN, et al., )  
 )  
 Defendants. )

This matter is before the Court on (1) Plaintiff's motion to compel and for sanctions, (2) Plaintiff's motion to strike Defendants Yelverton and Motley's reply to Plaintiff's response to statement of facts, (3) Defendants Yelverton and Motley's motion to strike Plaintiff's surreply, and (4) Plaintiff's motion for extension of time to file responses to several of Defendants' filings. Each motion will be discussed in turn.

Plaintiff seeks an order compelling Defendants Burlbaw, Cofield, Conley, Campbell, Morrison, Cella, and Sands to “fully and completely answer each of the Plaintiff’s interrogatories.” Defendants oppose the motion on the basis that it does not contain a certification of good faith and because it is vague.

Pursuant to Fed. R. Civ. P. 37(a)(1), a motion to compel “must include a certification that the movant has in good faith conferred or attempted to confer with the

person or party failing to make disclosure or discovery in an effort to obtain it without court action.” The motion does not include the requisite certification. As a result, it shall be denied. Additionally, the Court agrees with Defendants that the motion is too vague for consideration.

2. Plaintiff’s motion to strike Defendants Yelverton and Motley’s reply to Plaintiff’s response to statement of facts

Plaintiff moves the Court to strike Defendants Yelverton and Motley’s reply to his response brief’s statement of facts. Plaintiff argues that Defendants’ reply is argumentative and that Defendants’ counsel is untruthful and unethical. Defendants argue that their reply was appropriate.

The Court will deny the motion as frivolous. Defendants’ reply is standard and appropriate.

Furthermore, Plaintiff is warned not to make further accusations of untruthfulness or unethical behavior without submitting admissible evidence in support of such claims. These are serious accusations. If Plaintiff makes any further such accusations without submitting admissible evidence in support, Plaintiff may be subject to sanctions.

3. Defendants Yelverton and Motley’s motion to strike Plaintiff’s surreply

Defendants Yelverton and Motley move the Court to strike Plaintiff's surreply to their motion for summary judgment because Plaintiff did not receive permission from the Court before filing the surreply.

Pursuant to Local Rule 4.01, there are three briefs allowable for a motion: a supporting brief, an opposition brief, and a reply brief. "Additional memoranda may be filed by either party only with leave of Court." E.D. Mo. L.R. 4.01 (C). Although Plaintiff did not seek permission before filing, the Court will permit its filing this time. However, Plaintiff is advised that in the future any surreply filed with a motion for leave to file will not be filed and will be stricken.

4. Plaintiff's motion for extension of time to file responses to several of Defendants' filings

Plaintiff seeks additional time to respond to (1) the Missouri Department of Corrections Defendants' motion for summary judgment, (2) the Correctional Medical Services Defendants' motion for summary judgment, and (3), Defendants Yelverton and Motley's motion to strike.

For good cause shown, the Court will grant Plaintiff's motion for extension of time to reply to the motions for summary judgment. However, for the reasons stated above, the Court will deny the motion with respect to the motion to strike.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's motion to compel and for sanctions [Doc. #214] is **DENIED**.

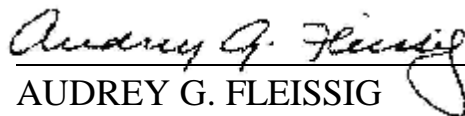
**IT IS FURTHER ORDERED** that Plaintiff's motion to strike Defendants Yelverton and Motley's reply to Plaintiff's response to statement of facts [Doc. # 226] is **DENIED**.

**IT IS FURTHER ORDERED** that Defendants Yelverton and Motley's motion to strike Plaintiff's surreply [Doc. # 236] is **DENIED**.

**IT IS FURTHER ORDERED** that Defendants shall have until **March 17, 2011**, to respond to Plaintiff's surreply.

**IT IS FURTHER ORDERED** that Plaintiff's motion for extension of time to file responses to several of Defendants' filings [Doc. #240] is **GRANTED** in part. Plaintiff shall file his responses to the Missouri Department of Correction Defendants' and the Correctional Medical Services Defendants' motions for summary judgment no later than **April 15, 2011**.

Dated this 3rd day of March, 2011.

  
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AUDREY G. FLEISSIG  
UNITED STATES DISTRICT JUDGE